

E-002/GR-91-1 ORDER VARYING TIME REQUIREMENTS FOR EXCEPTIONS TO
THE ALJ'S REPORT, ESTABLISHING DEADLINES FOR REPLY COMMENTS, AND
ESTABLISHING SERVICE REQUIREMENTS

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Darrel L. Peterson
Cynthia A. Kitlinski
Dee Knaak
Norma McKanna
Patrice M. Vick

Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of the Application
of Northern States Power Company
for Authority to Increase its
Rates for Electric Service in
the State of Minnesota

ISSUE DATE: October 1, 1991

DOCKET NO. E-002/GR-91-1

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FOR EXCEPTIONS TO THE ALJ'S
REPORT, ESTABLISHING DEADLINES
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PROCEDURAL HISTORY

On January 28, 1991 Northern States Power Company filed a petition for authorization to increase its rates for electric service. The Company requested an annual rate increase of \$98,198,000, or approximately 8.1%.

The Commission found that contested case proceedings were necessary and referred the matter to the Office of Administrative Hearings. That agency assigned Administrative Law Judge (ALJ) Richard C. Luis to hear the case. Judge Luis conducted evidentiary and public hearings, heard oral argument, and received briefs and recommended findings of fact and law from the parties. The first half of Judge Luis's report, dealing with financial issues, was filed on September 30. The second half, dealing with rate design, will follow shortly. Under Minnesota Rules, part 7830.3900, parties are required to file any exceptions to the ALJ's Report within 20 days of its service upon them.

On October 1, 1991 the Commission met on its own motion to consider two issues: (1) whether to vary the rule to shorten the 20-day period for filing exceptions, and (2) whether to allow parties to file replies to exceptions, which are optional under the rules.

FINDINGS AND CONCLUSIONS

The 20-Day Exception Period

The Commission may grant a variance to any of its rules upon finding that the following conditions apply:

1. Enforcement of the rule would impose an excessive burden upon the applicant or others affected by the rule;
2. Granting the variance would not adversely affect the public interest; and
3. Granting the variance would not conflict with standards imposed by law.

Minn. Rules, part 7830.4400.

The Commission finds that the requirements for granting a variance are met in this case.

Enforcing the rules' 20-day exception period would impose an excessive burden on the Commission and would not serve the regulatory process. The Commission is required by law to issue a final decision in this case within 10 months of its filing, by December 2, 1991. Minn. Stat. § 216B.16 (1990). The number and complexity of the issues in this case require careful analysis of the record. Allowing parties 20 days to file exceptions to the ALJ's Report would not allow adequate time to conduct that analysis and meet the 10 month statutory deadline.

Varying the 20-day exception period would not adversely affect the public interest. In fact, it would serve the public interest by ensuring that the Commission had time for careful and thorough deliberation.

Finally, varying the 20-day exception period would not conflict with standards imposed by law. Minn. Stat. § 14.61 (1990) requires that the ALJ's Report be available to parties for at least 10 days before the final decision is made, that parties be allowed to file exceptions to the Report, and that parties be allowed to present oral argument. The accelerated filing requirements under consideration would comply with these and all other statutory requirements.

The Commission concludes that the requirements of Minn. Rules, part 7830.4400, have been met and will order Minn. Rules, part 7830.3900 varied.

Replies to Exceptions

The Commission believes that allowing replies to exceptions is likely to help clarify the issues and the parties' positions. The Commission will therefore allow replies to exceptions.

Expedited Service

Finally, given the accelerated filing deadlines in this case, the Commission finds that allowing service by mail would put all parties under unnecessary additional time pressure. The Commission will therefore require parties to serve their exceptions and replies to exceptions in person or by an overnight delivery service.

ORDER

1. Minn. Rules, part 7830.3900 is hereby varied to require that exceptions to each part of the ALJ's Report be filed and served no later than ten days from the day it is served on the parties by the ALJ.
2. For each part of the ALJ's report, replies to exceptions shall be filed and served no later than five days from the last day for filing exceptions.
3. All parties shall serve their exceptions to the ALJ's Report and replies to exceptions in person or by an overnight delivery service.
4. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Richard R. Lancaster
Executive Secretary

(S E A L)